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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,199	11/17/2003	Takahiko Koizumi	MIPEP065	4121
25920 7590 01/21/2009 MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085				
EXAMINER				
DURNFORD GESZVAIN, DELOON				
ART UNIT		PAPER NUMBER		
2622				
MAIL DATE		DELIVERY MODE		
01/21/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/716,199

Applicant(s)

KOIZUMI ET AL.

Examiner

Dillon Durnford-Geszvain

Art Unit

2622

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6 and 9-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Claims **1, 2, 4-6** and **9-11** are pending, claims **1** and **9-11** are amended, and claims **3, 8** and **9** are cancelled.

Response to Arguments

2. Applicant's arguments with respect to claims **1** and **9-11** have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. **Claims 1, 2, 4-6 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,975,759 (Lin) in view of US 2003/0161506 (Velazquez).**
5. As to claim 1, Lin teaches an image processing method for processing an image using image data produced by an image producing device, and image production record information which includes at least information relating to shooting conditions at the time of production of the image data, and which is associated with the image data, the method comprising:

performing color balance adjustment processing of the image data, wherein the performing includes:

determining differences of respective color components of pixels that have colors

close to a present memory color from respective color components of a preset target color in the image data by analyzing the image data (C4 L25-32); and

adjusting a processing amount of the color balance adjustment processing in accordance with the differences, the adjusting including adjusting a proportion of the processing amount of the color balance adjustment processing with respect to the differences (C7 L36-51 and Fig. 4 Step 416);

judging whether or not operating settings of the image producing device at the time of the production of the image data are suitably set for portrait images by analyzing the image production record information in cases where the image production record information includes shooting mode information relating to the operating settings;

performing the color balance adjustment processing of the image data in cases where the judgment is affirmative; and

prohibiting the color balance adjustment processing of the image data in cases where the judgment is negative. and the subject distance information (Because it is not the case in Lin that image production record information includes shooting mode information the italicized portions do not limit the claim with respect to Lin, therefore the language is not taken to limit the claim in any way with respect to the presently cited prior art).

What Lin does not teach is information relating to subject distance relating to a distance between the image producing device and the subject of the image data at the time of production is used in the color balance adjustment so that in cases where the distance is small more processing is done. However, Velazquez teaches storing subject

distance as metadata ([0013] and [0017]) and using this information to determine the size that a face should be if it is close or far away from the camera [0027]).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have stored the distance to a subject as metadata and used this information to estimate face size in Lin as this would allow the camera to determine if a skin colored portion in an image is actually skin and not some distance object that was the same color as skin and if it was determined that the portion was skin because it is close the amount of adjustment would be large because it would be determined that it was actually a person as this would allow for more precise white balance control than can be achieved with the system of Lin alone.

6. As to claim **2**, see the rejection of claim **1** and note that Lin further teaches an image processing method according to claim **1**, wherein the color balance adjustment processing is performed for the entirety of the image (C7 L38-40).

7. As to claim **4**, see the rejection of claim **1** and note that aside from the subject distance, Velazquez also teaches using the subject distance, which directly related to the lens focal distance ([0017], i.e. the distance from the focused plane to the lens) to determine the estimated face size based on whether the subject is in the near or far field ([0028]).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have also used the lens focal distance in the calculation of

claim 1 for the same reasons given in the rejection of claim 1.

8. As to claim 5, see the rejection of claim 1 and note that Lin further teaches an image processing method according to claim 1, wherein the performing includes: calculating a proportion of pixels that have a color close to a preset memory color (skin color, for example) by analyzing the image data (C4 L8-15 and note that one of ordinary skill in the art would recognize the proportion of pixels that a color close to a skin color to be a suitable signal for facial detection); and
performing color balance adjustment processing using the proportion of the pixels (C7 L38-40).

9. As to claim 6, see the rejection of claim 4 and note that in the combination of Lin and Velazquez when the depth of field is far an estimated face size would be small and therefore a processing amount would be large if the amount of skin colored portions is large as it is not likely to be a person so the color would need to be adjusted ([0027] of Velazquez).

10. Claim 9 is an apparatus that corresponds to the method of claim 1 and therefore is rejected on the same grounds but drawn to an apparatus.

11. Claim 10 is a computer program product that performs the steps of the method of claim 1 and therefore is rejected on the same grounds as the method of Lin is carried

out using logic (C5 L1-9) and therefore must inherently use a program to perform the method.

12. Claim 11 essentially is an output device for outputting image data processed by the method of claim 1 with an apparatus corresponding to claim 9 and therefore is rejected on the same grounds as claims 1 and 9 as Lin discloses such an output device (C7 L40-42).

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dillon Durnford-Geszvain whose telephone number is (571)272-2829. The examiner can normally be reached on Monday through Friday 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dillon Durnford-Geszvain

1/14/2009

/David L. Ometz/
Supervisory Patent Examiner, Art Unit 2622